IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Notice of Motion No. l294 of 2005
in
Appeal No.400 of 2005
in
Notice of Motion No.l252 of 2005
in
Suit No. ll74 of 2004

Procter & Gamble Hygiene And
Health Care Ltd and anr ...appellants

vs

Quality Ayurvedic Pharmacy ..respondents

Dr. Vishal Nadkarni
i/b D.S.K.Legal for appellants

None for the respondents

CORAM: A.P.SHAH & S.J.VAZIFDAR JJ.

Dated 27.4.2005

P.C:
Mentioned not on board.

. Heard Mr.Nadkarni appearing for the appellants. Perused the record including order of the learned single Judge.

. Prima facie the packaging of the defendants is similar to the packaging of the plaintiffs and though there is difference in the name there is similarity which is likely to confuse a person of average intelligence with imperfect recollection.

. In view of the decision of the Apex Court in Cadilla Health Care vs Cadilla Pharmaceuticals reported in AIR 200l SC l952 and for the reasons stated in para 34 of the plaint, we issue ad-interim relief in terms of prayer clauses (a) to (d) of the notice of motion.

. The appellants to comply with the provisions of Order 39 rule 3 one week after the Receiver implementing the order,otherwise in matter such as this the whole purpose of the order will be frustrated if the defendant is given noitce of the exparte order before Receiver takes possession.

. Motion to be posted for hearing on 4.5.2005.

. All the parties concerned including the Prothonotary and Senior Master and Court Receiver to act on the ordinary copy of this order duly authenticated by the Private Secretary.